

Date: 8 February 2024

To: UN Working Group on Business and Human Rights

Re: Call for input for the Working Group's report on respecting the rights of LGBTI people in the context of business activities

Dear members of the Working Group:

I have been encouraged to submit a response to the "Questionnaire for Other Stakeholders" you have prepared and I am honored to have the opportunity to do so.

For context, I am a gay male, 72 years old, dual French-US citizen, residing in the USA, now operating (since 2009) as the owner and principal consultant of a small consulting company on information strategies, and previously employed in large multinational companies.

I will only answer those questions on which I believe I have relevant information and experience to provide.

1. In what ways do lesbian, gay, bisexual, transgender, and gender diverse and intersex (LGBTI) people experience human rights impacts in the context of business activities?

There are various forms of impact to consider. In countries such as the United States, countries of the E.U., and more, those impacts may seem minor compared to what is happening in some other countries, to the extent that some people might question whether those impacts deserve to be called "human rights impacts," but those impacts exist nonetheless.

Access to funding. There is a significant number of small businesses in the U.S. that were founded and are managed by LGBTQI people. Many sources of capital are still reluctant to provide funding to them. For specific statistics about the percentage of funding that goes to LGBTQI founders, and how much smaller this number is than the actual percentage of such founders in the overall population and entrepreneur community, I encourage you to contact StartOut (www.startout.org), a nonprofit organization specifically dedicated to supporting LGBTQI entrepreneurs and redressing this imbalance.

Promotion limitations. Many executives still see LGBTQI people with suspicion or unease, which results in denied promotions even when LGBTQI candidates are the best-qualified ones. While I cannot prove that this is what happened to me in my corporate career (1974-2009) I strongly suspect that some of my managers passed me over for that reason.

Dangerous assignment conditions. In a multinational context, I have known of incidents where LGBTQI people were assigned, at great risk to themselves, to positions in countries where LGBTQI people can face hostile actions with the complicity of the government of those countries, requiring in one case an emergency repatriation (a lesbian oilfield engineer assigned to a job in Yemen).

3. Please share the experiences of businesses in integrating a gender perspective that is inclusive of the experiences of LGBTI people into their internal structures, policies and practices, including in inclusion and diversity initiatives, as well as in human rights due diligence processes?

The only experience I can share about this is a negative one. I once brought up to the CEO of the company I was working for at the time the fact that the company's non-discrimination policy did not mention sexual orientation or gender identity. The CEO appeared sympathetic to my report, and referred the matter to a senior manager in the Human Resources department, with whom I met. Some months later, I found out that instead of adding sexual orientation and gender identity to the list of prohibited discriminations, the HR department has chosen instead to remove the mention of all categories (including race, ethnicity, gender, religion, etc.). Ostensibly, the reason was that (this is a paraphrase, not an exact quote) "we would be in violation of the laws of certain countries where we operate if we added sexual orientation and gender identity to the list."

Of course, the result of shortening the clause in the policy to just "we do not discriminate" was that every local manager could now interpret this at their discretion, including based on their religious beliefs, culture, or other biases. This not only failed to protect LGBTQI employees, but it made the situation worse, not better, for all the other categories of people that the policy was supposed to protect.

The purported reason to refuse to mention anti-LGBTQI discrimination was also patently invalid, since other companies operating in the same countries (for examples, Shell Oil) had included such protections in their own policies.

5. Are there any positive practices of meaningful and equal participation of LGBTI persons, movements and organizations in State and business led decision making initiatives and processes on business and human rights?

I would encourage you to look at the programs of the National LGBTQ Chamber of Commerce (NGLCC, www.nglcc.org) and in particular their certification program for "LGBT Business Enterprises" (LGBT-BE). They have had significant success (in the United States) in getting local governments and large companies to accept the LGBT-BE certificate in the same way they accept certifications of women-owned or minority-owned businesses, in order to exercise a form of "affirmative action" to select suppliers from those communities.

Regards, and thanks for your important work.



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